

CARMEL PLAN COMMISSION

Rules of Procedure

(Effective Date: September 15, 2020)

Article I. Authority and Duties

Section 1. Establishment:

The Carmel Plan Commission (hereinafter called "Commission") exists as an Advisory Plan Commission under the authority of IC 36-7-4-404 and the Unified Development Ordinance of the City of Carmel, Indiana, and any amendments thereto. These Rules are adopted in accordance with the requirements of IC 36-7-4-401.

Section 2. Duties:

The duties of the Commission shall be those set forth in IC 36-7-4-400 *et seq.*, and such other responsibilities as may be required by state statute or the Carmel City Code.

Article II. Officers, Members & Employees

Section 1. Membership:

A. Number of Members:

The Commission shall consist of 9 voting members, appointed in accordance with IC 36-7-4-207. In addition, there shall be one advisory member appointed by the Hamilton County Plan Commission. Said advisory member shall have all rights of participation in the deliberations of the Commission except the right to vote.

B. Citizen Members:

According to IC 36-7-4-216, citizen members of the Commission shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elected office, or any other appointed office in municipal, county, or state government except for membership on the Carmel Board of Zoning Appeals.

C. Residency Requirements:

Subject to paragraph D, a citizen member must either be a resident of the City, or be a resident of Hamilton County who owns property in the City.

D. Determination of Residency:

At least a majority of the total number of citizen members appointed to the Commission must be residents of the City. The Commission shall determine whether a citizen member meets all applicable residency requirements for appointment in accordance with paragraph E.

E. Referral to Executive Committee:

Whenever a petitioner or interested party raises an issue as to whether a member of the Commission meets all applicable residency requirements, the issue shall be referred to the Executive Committee. Subject to Article XI, Section 4 of these Rules, the Executive Committee shall make a determination on the issue and report its findings and determination to the appointing authority of the respective member.

Section 2. Election of Officers:

At its first regularly scheduled meeting in each calendar year, the Commission shall elect from its voting membership a president and a vice president. Each shall serve during the period of their membership on the Commission for the balance of the calendar year.

Section 3. Duty of Vice President:

The vice president shall act as president of the Commission during the absence or disability of the president.

Section 4. Filling of Officer Vacancies:

Upon resignation or replacement of the president or vice president as a member of the Commission, the Commission shall elect a successor at its next regularly scheduled meeting.

Section 5. Duties of Secretary:

The Commission shall appoint and fix the duties of a secretary, who is not required to be a member of the Commission. The secretary shall be charged with such duties as required under state statutes, Carmel city ordinances, and these Rules.

Section 6. Representative to County Plan Commission:

One member of the Commission shall be designated as the Commission's representative to the Hamilton County Plan Commission.

Section 7. Representative to Carmel Board of Zoning Appeals:

One member of the Commission shall be designated as the Commission's representative to the Carmel Board of Zoning Appeals.

Section 8. Filling of Member Vacancies:

If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may remove a member pursuant to IC 36-7-4-218(f). In addition, if a member of the Commission misses three consecutive regular meetings, or a total of six meetings of the Commission in any calendar year, that member becomes disenfranchised and shall no longer be considered a viable member of the Commission.

Section 9. Appointment of Employees:

The Commission may appoint such employees as are necessary to the discharge of the duties of the Commission. Within its budget allotment, the Commission may fix the compensation of such employees in conformity with salaries and compensation fixed up to that time by the Carmel City Council.

Section 10. Special or Temporary Services:

Within its budget allotment, the Commission may contract for special or temporary services and for legal counsel.

Article III. Meetings

Section 1. Regular Meetings:

The regular meetings of the Commission shall be the third Tuesday of each month at 6:00 p.m. The location of the meeting shall be in Council Chambers of the City of Carmel, City Hall, One Civic Square, Carmel, Indiana. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the president may set an alternate date, time or place for the regular meeting, or may cancel the meeting with the unanimous consent of the members of the Commission, provided that the notice requirements of IC 5-14-1.5 are complied with.

Section 2. Special Meetings:

Special meetings may be called by the president or two members of the Commission upon written request to the secretary. The secretary shall send to all members, at least five calendar days before the special meeting, a written notice fixing the time, place and purpose of the meeting. Written notice is not required if:

1. the date, time and place of the special meeting are fixed in a regular meeting;
2. all members of the Commission are present at that regular meeting; and
3. the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. Order of Business:

The order of business at regular meetings shall be:

- a. Call to Order
- b. Pledge of Allegiance
- c. Roll Call
- d. Determination of Quorum
- e. Consideration of Minutes of Previous Meeting
- f. Communications, Bills, and Expenditures
- g. Legal Counsel Report
- h. Report of Officers and Committees (and DOCS Staff, if applicable)
- i. Public Hearings
- j. Old Business
- k. New Business
- l. Adjournment

Section 4. Duties of President:

The president of the Commission shall preside over meetings, decide questions of order, subject to appeal by Commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the Commission for purposes of recording in the minutes.

Section 5. Addressing the Commission:

No one who is not a member of the Commission shall be permitted to address the Commission except by request to and consent of the president.

Section 6. Applicability of Open Door Law:

A. Open Door Law Definitions:

For purposes of this Section and Sections 7 and 8 of this Article, words and phrases that appear in quotation marks have the meanings set forth in IC 5-14-1.5-2.

B. Open Meetings Required:

Except as permitted in IC 5-14-1.5-6.1 (relating to "executive sessions"), all "meetings" of the Commission and its committees must be open to the public as required by IC 5-14-1.5 (the Indiana Open Door Law).

Section 7. Serial Gatherings:

A. Prohibition on Serial Gatherings:

Pursuant to IC 5-14-1.5-3.1 (relating to serial gatherings), Commission members are prohibited from participating in any series of gatherings which meets all of the following criteria:

1. When one of the gatherings is attended by either three or four Commission members and the other gatherings include at least two Commission members.
2. When the sum of the number of different Commission members attending any of the gatherings at least equals five.
3. When all the gatherings concern the same subject matter and are held within a period of not more than seven consecutive days.
4. When the gatherings are held to take "official action" on "public business".

B. Attendance at Gathering:

For purposes of this Section, a Commission member attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone, computer, videoconferencing, or any other electronic means of communication, excluding electronic mail.

C. Exclusions:

A gathering under this Section does not include:

1. a social or chance gathering not intended by any member to avoid the requirements of IC 5-14-1.5;
2. an onsite inspection of any project, program, or facilities of applicants for incentives or assistance from the Commission;
3. traveling to and attending meetings of organizations devoted to the betterment of government;
4. a "caucus";
5. a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or "final action" on the terms of a request or an offer of public financial resources;
6. an orientation of Commission members on their role and responsibilities as public officials, but not for any other "official action";
7. a gathering for the sole purpose of administering an oath of office to an individual; or
8. a gathering that includes less than five Commission members which is intended solely for members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the Commission and at which no other "official action" will occur.

Section 8. Communications Among Members:

A. Remote Participation:

A Commission member who is not physically present at a “meeting” of the Commission may communicate with other Commission members during the “meeting” by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail. Unless authorized by law or pursuant to an executive order duly issued by the Governor of the State of Indiana, such a member:

1. may not participate in “final action” taken at the “meeting”; and
2. may not be considered to be present at the “meeting” for quorum purposes.

B. Minutes Regarding Remote Participation:

The minutes of any “meeting” in which a Commission member participates by using a means of communication described in Paragraph A must state the name of:

1. each member who was physically present at the place where the “meeting” was conducted;
2. each member who participated in the “meeting” by using a means of communication described in Paragraph A; and
3. each member who was absent.

C. Communications Allowed (Commission):

A Commission member may communicate with other Commission members (other than during a “meeting” of the Commission) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than five Commission members and are intended solely for the Commission members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the Commission and involve no other “official action”.

D. Communications Allowed (Committees):

A Commission member may communicate with members of a committee (other than during a “meeting” of the committee) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than three committee members and are intended solely for the committee members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the committee and involve no other “official action”.

Article IV. Official Action

Section 1. Quorum:

A majority of the members of the Commission who are qualified to vote shall constitute a quorum. Action of the Commission shall not be official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the Commission.

Section 2. Voting:

Decisions of the Commission shall be by a show of hands, by roll call vote, or by written ballot of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or in the case of a zoning matter, have disqualified themselves because of a conflict of interest as described in Section 3 of this Article.

Section 3. Conflicts of Interest:

No member of the Commission shall participate in a hearing, discussion, or decision of the Commission upon any zoning matter in which the member has a direct or indirect financial interest. A "zoning matter" includes a Unified Development Ordinance amendment or a rezoning but does not include the preparation or adoption of the Comprehensive Plan or Plan amendment. A member shall declare his or her known conflict of interest. The Commission shall enter into its records the fact that the member has such a disqualification.

Section 4. Inability to Achieve Majority Vote:

In the event a majority vote of the Commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting.

Section 5. Reconsideration of Votes:

Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

Article V. Minutes and Records

Section 1. Preparation of Minutes:

The secretary of the Commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining with permission, or not voting because of disqualification.

Section 2. Public Records:

The minutes of the Commission meetings and all records shall be filed in the office of the Commission and are public records, as defined by IC 5-14-3 (the Indiana Access to Public Records Act).

Section 3. Approval of Minutes:

The minutes shall be presented to the Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

Article VI. Docketing

Section 1. Issuance of Docket Numbers:

Each case to be heard before the Commission shall be filed in proper form with the required data and shall be numbered serially. The docket numbers shall include the year and begin anew on January 1 of each year and be identified as follows:

- PP - Primary Plat
- PPA - Primary Plat Amendment
- SP - Secondary Plat
- SPA - Secondary Plat Amendment
- SW - Subdivision Waiver
- PV - Plat Vacation
- CP - Comprehensive Plan
- CPA - Comprehensive Plan Amendment
- OA - Amendment to the Unified Development Ordinance
- DP - Development Plan
- DPA - Development Plan Amendment
- Z - Rezoning
- ZW - Zoning Waiver
- CM – Commitment Modification or Termination
- ADLS - Site plan, Architectural Design, Landscaping, Lighting and Signage
- ADLSA - Site plan, Architectural Design, Landscaping, Lighting and Signage Amendment

Section 2. Duties of Director:

If the Director of the Department of Community Services (DOCS) finds that the petition is in good order with sufficient information and material for Commission consideration (as described in Section 4 of this Article), the Director shall assign a docket number to the matter.

Section 3. Scheduling of Hearings:

As soon as an item that requires a public hearing receives a docket number, it shall be placed on the agenda of the Commission, or a committee thereof, by the Director of DOCS and a date and time set for the public hearing. The Director shall endeavor to arrange the agenda for each regularly scheduled meeting so that it contains no more than seven items requiring a public hearing. Items shall come before the Commission in the regular order of their consecutive numbers unless otherwise ordered by the Commission.

Section 4. Agenda Items:

A. Complete Information Required:

No item shall be placed on the agenda of the Commission or a standing committee until all information and material to be presented to the Commission by the petitioner has been submitted to Staff for review and judged to be in compliance with DOCS standards.

B. Placement on Agenda:

After an item has been determined to be in compliance with DOCS standards, it shall then be placed on the agenda for either:

1. a regularly scheduled meeting of the Commission, to be held within the ensuing 45 calendar days (except as provided in Section 3 of this Article);
2. a regularly scheduled meeting of a standing committee, to be held within the ensuing 35 days; or
3. a special meeting of the Commission or a standing committee which may be called pursuant to these Rules.

C. Transmission of Materials to Members:

All material regarding an agenda item including items requiring a public hearing shall be mailed or electronically transmitted to each member of the Commission or committee by Staff no later than five calendar days prior to the meeting.

D. Delayed Filing of Documents:

Presentation of required filing documents at the meeting, as established by Staff, shall require the Commission or committee to suspend these Rules to proceed with further action on the petition. Failure to suspend the Rules will prohibit further action on the petition until the next regularly scheduled meeting of the full Commission or committee.

Section 5. Referral to Technical Advisory Committee:

Any application to the Plan Commission which involves land usage in any way (such as a DP or PP) shall be sent to the Technical Advisory Committee (TAC) for its review and

recommendations prior to being heard by the Plan Commission. The TAC may require additional information in order to conduct a thorough review and make its recommendations to the Plan Commission. Therefore, it may request of the applicant or the Director that additional studies be conducted or that expert advice be engaged by the City. The cost of such additional studies or expert advice shall be the responsibility of the applicant.

Section 6. ADLS Petitions:

ADLS only petitions are not required to go to a committee; the Commission may act on an ADLS petition the same night it is presented.

Article VII. Public Hearings/Notice Requirements

Section 1. Requirement of Public Hearing:

The Commission shall hold such public hearings as are required by state statute and city ordinances. Items requiring Public Hearings are as follows, but not limited to: Development Plan, Primary Plat, Vacation of a Plat, Change Official Zoning Map (Rezone), Amend/Repeal/Change Text of the Unified Development Ordinance or Comprehensive Plan, or other matter under jurisdiction of the Commission. The Commission may hold additional hearings at such times and places upon such notice as it considers necessary.

Section 2. Petition to Be Filed:

A petitioner who seeks to vacate a plat, change the official zoning map (rezone), amend the text of the Unified Development Ordinance or Comprehensive Plan, or other matter under jurisdiction of the Commission shall file a petition with Commission. Two copies of the petition, application, or plats must be filed with the Commission at least 60 days prior to a regularly scheduled Commission meeting.

Section 3. Filing Fee Required:

All petitions not initiated by the Commission itself shall be accompanied by a non-refundable filing fee in an amount established by the Unified Development Ordinance.

Section 4. Amendment of Filing Fees:

For the purpose of amending Section 3 of this Article dealing with filing fees, the Commission shall publish a public notice in a newspaper of general circulation which conforms to Sections 9 and 10 of this Article.

Section 5. Discretion of Commission:

The Commission may require additional information, data, statistics, or plats beyond those established by statute or ordinance which are deemed necessary for intelligent determination by the Commission.

Section 6. Legal Advertisement Required:

The petitioner is hereby designated by the Commission as the party responsible for preparing the legal advertisement of the public hearing for the approval of the Commission and shall bear the expense of the advertising cost.

Section 7. Notice Requirements Generally:

A. Comprehensive Plan Amendment – Public Notice:

When a Public Hearing is required for an amendment to the Comprehensive Plan, notice shall be given to all interested parties as follows:

1. All interested parties shall constitute the general public, residents, and property owners of the jurisdiction.
2. Notice will be given by publication in a locality newspaper that circulates within the City.
3. It shall be the responsibility of the petitioner to publish the notice.

B. Administrative Issues – Notice to Interested Parties:

When a Public Hearing is required for any ministerial or administrative determination to be made by the Commission, notice shall be given to the general public as described in Paragraph A and shall also be sent by first class letter with Certificate of Mailing to all interested parties as follows:

1. Interested parties shall be the owners of real estate lying within 660 feet of the subject property, or a depth of two property ownerships, whichever is less, as shown by a certified issue of the Auditor of Hamilton County (or an adjacent county as described below), or by a title insurance company and dated not more than 45 days prior to the date of the public hearing.
2. If the subject of the proposal abuts or includes a county line, or a county line road, or a county line body of water, all owners of real property to a depth of two ownerships or 1/8 of a mile into the adjacent county are interested parties (pursuant to IC 36-7-4-604(c)) and must receive notice.

C. Administrative Issues – Notice by Placement of Sign:

When a Public Hearing is required for any ministerial or administrative determination to be made by the Commission, the petitioner shall also serve notice to the general public by placing a sign per the approval of Staff on the subject property. The sign shall be placed no less than 21 days prior to the public hearing and removed no more than three days after.

Section 8. Notice Requirements for Ordinance Changes:

A. Ordinance Text Amendments – Notice to Interested Parties:

When a public notice of hearing is required for the amendment to the wording or text of the Unified Development Ordinance under IC 36-7-4-607, it shall be given to interested parties as follows:

1. Interested parties shall be the residents of the jurisdiction of the Plan Commission and of the two adjoining counties.
2. Notice will be given by publication in a locality newspaper that circulates within the City.
3. It will be the responsibility of the petitioner to publish all of said notices.

B. Zone Map Changes – Notice to Interested Parties:

When a Public Hearing is required for a rezone by an amendment to the zone maps under IC 36-7-4-608, then notice shall be given as follows:

1. Interested parties shall be the owners of real estate lying within 660 feet of the subject property, or a depth of two property ownerships, whichever is less, as shown by a certified issue of the Auditor of Hamilton County (or an adjacent county as described below), or by a title insurance company and dated not more than 45 days prior to the date of the Public Hearing.
2. If the subject of the proposal abuts or includes a county line, or a county line road, or a county line body of water, all owners of real property to a depth of two ownerships or 1/8 of a mile into the adjacent county are interested parties (pursuant to IC 36-7-4-604(c)) and must receive notice.
3. The petitioner will be the person responsible for causing the notice to be sent by first class letter with Certificate of Mailing, and will be responsible for publishing the notice as required in paragraph D of this Section.
4. This letter shall include an area location map of the subject property.

C. Zone Map Changes – Notice by Placement of Sign:

When a Public Hearing is required for a rezone by an amendment to the zone maps under IC 36-7-4-608, the petitioner shall also serve notice to the general public by placing a sign per the approval of Staff on the subject property. The sign shall be placed no less than 21 days prior to the public hearing and removed no more than three days after.

D. Zone Map Changes – Publication of Notice:

When a Public Hearing is required for a rezone by an amendment to the zone maps under IC 36-7-4-608, the petitioner shall also serve notice to the general public by publishing a notice in a locality newspaper that circulates within the City.

Section 9. Form of Notice:

A. Form and Time of Notice to Interested Parties:

The Commission shall require the petitioner to notify by first class letter with Certificate of Mailing all persons deemed by State Statute and the Commission to be interested parties as defined in Section 8 of this Article. This letter shall include an area location map of the subject property. However, when an amendment to the zone maps under IC 36-7-4-608 would rezone the subject property or properties to any Park and Recreation District, the petitioner shall notify by first class letter with Certificate of Mailing all owners of the subject property but shall not be required to notify by letter interested parties as defined in Section 8 of this Article. Notice of hearings on proposals initiated by the Commission pursuant to IC 36-7-4-602(b)(1) or IC 36-7-4-602(c)(1) shall be published or sent not less than 10 days prior to the Public Hearing date (including the date of the hearing). Notice of hearings on all other proposals shall be published or sent not less than 21 days prior to the Public Hearing date (including the date of the hearing). The parties designated in the above sections will be the persons designated by the Commission as the party responsible for causing the notice to be published.

B. Designation of Locality Newspaper:

For the purposes of consideration, a locality newspaper that circulates within the City, in accordance with the Indiana Code, would be the Current in Carmel. However, where the premises that would be rezoned by an amendment to the zone maps is located within or adjacent to the 46074 postal ZIP code, Staff may direct that the Current in Westfield be deemed to be a locality newspaper that circulates within the City; and, where the premises that would be rezoned by an amendment to the zone maps is located within or adjacent to the 46077 postal ZIP code, Staff may direct that the Current in Zionsville be deemed to be a locality newspaper that circulates within the City. Where the premises that would be rezoned by an amendment to the zone maps is located within or adjacent to the 46240, 46260, 46268, 46280, or 46290 postal ZIP code, Staff may direct that the Indianapolis Star be deemed to be a locality newspaper that circulates within the City.

Section 10. Information Required in Notice:

The following information shall be included in both the published legal notice (Section 9 of this Article) and the notice to interested parties (Section 8 of this Article):

1. Docket number and the substance of the matter to be heard.
2. The legal description of the subject real estate or the tax ID parcel number(s).
3. General location by address, street intersections, or other identifiable geographic characteristic of the property.
4. Name of the person, agency, or entity initiating the matter to be heard.
5. A general description of the petitioner's request of approval.
6. Date, time, and place of the hearing.
7. Statement that the petition may be examined at the DOCS office.

8. Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing.
9. Any other information which may be required by law to be contained in such notice.

Section 11. Certification To Be Delivered:

Three business days prior to the date of the public hearing, the petitioner shall deliver to Staff a copy of the notice mailed to the interested parties, a copy of the Certificate of Mailing from the United States Postal Service, and an affidavit from the publisher (of the locality newspaper) certifying the date that the notice was published.

Section 12. Waiver of Notice:

An interested party may waive, at any time, notice of the public hearing by the execution of a written statement addressed to the president or secretary of the Commission stating that such interested party has or had knowledge of the date, time, and place of the public hearing, and the nature of petitioner's requested approval and hereby waives notice of such public hearing thereon as required under this Article.

Article VIII. Conduct of Public Hearings

Section 1. Order for Public Hearings:

At a public hearing before the Commission, the petitioner, property owner, or agent for the petitioner shall first present the facts and arguments in support of the case. Comments and questions from the Commission members may be interjected during the presentation for clarification of the subject matter. Each of those persons who wishes to comment on the petition must address the president and be recognized before speaking. Each person must state his or her name and community that he or she resides in. To maintain orderly procedure, each side should proceed without interruption by the other side.

Section 2. Time Limits:

All items for public hearing shall be presented in the following manner:

1. Petitioner's Presentation – 15 minutes.
2. General Public Comments – 20 minutes. (The president shall limit public comments to not more than 3 minutes per person.)
3. Petitioner's Rebuttal (if necessary) – 5 minutes.
4. Staff Comments – As requested for explanation or at the end of the public hearing.

At the discretion of the majority of the Commission members present, the above time limits may be extended. There should be no time allowed for rebuttal of the rebuttal; however, should it occur, the petitioner shall always be given the opportunity to give final rebuttal (per Robert's Rules of Order).

Section 3. Closure of Public Hearing:

The president shall close the public hearing after hearing the Staff comments (if any). The president shall distribute or read all written public comments on the petition received by the Commission secretary, whether submitted in paper or electronic format. All public comments should be directed to the Commission secretary, who shall then distribute them to all Commission members and enter them into the public record.

Section 4. Disposition After Public Hearing:

A. Motion Required:

After the public hearing is formally closed and any comments and questions from the Commission and/or Staff have been heard, the president shall then call for a motion regarding the disposition of the matter. Any of the following motions shall be in order at this time:

1. Motion for the president to assign the matter to a committee, with the committee directed to review the matter and then return it to the Commission with a recommendation (if any), together with any modifications, specifications, or limitations which it may recommend to the Commission;
2. Motion for the president to assign the matter to a committee, with the committee delegated the authority to make any decision that the Commission would otherwise be required to make; or
3. Motion for the Commission to take final action on the matter without the matter being assigned to a committee, subject to Section 5 of this Article.

B. Failure to Adopt Dispositive Motion:

If no motion is adopted pursuant to paragraph A of this Section, the president shall announce that the matter shall be continued to the next regular meeting of the Commission.

C. Assignment of Matter to Committee:

The president must close the public hearing before assigning the matter to committee, unless these Rules are suspended in accordance with Article XII, Section 2 of these Rules.

Section 5. When Final Action Requires Rule Suspension:

Before final action on a matter may be taken during the meeting at which it is first heard, without the matter being assigned to a committee, a suspension of the Rules is required, in accordance with Article XII, Section 2 of these Rules.

Section 6. Burden of Proof:

In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the

project. The Commission may continue the hearing when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 7. Decorum:

Every person appearing before the Commission shall abide by the order and directions of the president. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the Commission directs. Applause in support of statements is an example of discourteous conduct which will not be condoned. In addition, the president shall have the authority to prohibit repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by each speaker as deemed appropriate to a fair and efficient public hearing.

Section 8. Amendment or Modification of Proposal:

The Commission, at its discretion, may permit a petitioner to make amendments or modifications to a proposal pending before it, or may continue or postpone the hearings of any case.

Article IX. Final Disposition of Cases

Section 1. Form of Decision or Report:

After consideration of any reports and recommendations of Staff, the final disposition of any case shall be in the form of a decision or report, setting forth, when deemed appropriate, the recommendation (if any), findings and determinations of the Commission, together with any modifications, specifications or limitations which it makes. In any case in which the Commission is required to make written findings along with a final decision, the Commission may adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications or limitations, or the Commission may delegate to Staff and/or legal counsel the authority to prepare written findings. When written findings are required, the Commission's findings shall be executed by the president and secretary of the Commission and filed in the office of the Commission within 45 days after the date of the Commission's final decision.

Section 2. Dismissal of Case:

The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petitioner has failed to appear at two consecutive meetings, the case may be dismissed for lack of prosecution. With respect to a Secondary Plat, when the Secondary Plat has been pending before Staff for three consecutive months, Staff may request that the Commission dismiss the case for lack of prosecution. Staff shall notify the petitioner by mail, not less than 10 days before presenting the request to the Commission, that Staff will seek the Commission's approval to dismiss the Secondary Plat petition.

Section 3. Withdrawal of Case:

A petitioner may not withdraw a case after a vote has been ordered by the president.

Section 4. Restrictions on Resubmission After Withdrawal:

A case which has been withdrawn by the petitioner shall not be placed on the docket again for consideration within a period of six months after the date of withdrawal. A new case involving the same property that was the subject of a case which has been withdrawn by any petitioner shall not be placed on the docket for consideration within a period of three months after the date of withdrawal.

Section 5. Restrictions on Resubmission After Adverse Decision:

A case which has been decided adversely to the petitioner shall not be placed on the docket again for consideration until the legality of the Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of 12 months following the date of the adverse decision previously rendered, whichever is later. A new case involving the same property that was the subject of a case which has been decided adversely to any petitioner shall not be placed on the docket for consideration until the legality of the Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of six months following the date of the adverse decision previously rendered, whichever is later.

Section 6. Certification to Common Council:

Because the Commission's recommendation (if any) is only advisory in matters of rezones and text amendments to the Unified Development Ordinance or Comprehensive Plan, all such matters shall be certified to the Common Council for its consideration in accordance with state statute. The Commission's recommendation (if any) on any such matter may then be followed or overturned by the Common Council in accordance with state statute and the rules of the Council.

Section 7. Commitments:

Pursuant to IC 36-7-4-1015(a), as a condition to the: a) Adoption of a Rezoning proposal; b) Primary approval of a proposed Subdivision Plat or Development Plan; or c) approval of a vacation of all or part of the Plat; the Commission may require or allow the owner of a parcel of real property to make a commitment to the Commission concerning the use or development of that parcel. Pursuant to IC 36-7-4-1015(c), the Commission hereby declares that the criteria to be considered when an owner applies for the modification or termination of a commitment made under these Rules are the same criteria that applied to the proposal when the Commission originally recommended adoption or granted approval, as the case may be.

Article X. Reconsideration of Related Proposals

Section 1. Defeated Rezone Proposals:

The Commission may not further consider for one year any proposal to amend the zoning map (rezone) which has been defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608.

Section 2. Withdrawn Rezone Proposals:

The Commission may not further consider for six months any proposal to amend the zoning map (rezone) which has been withdrawn by the petitioner, regardless of whether it is withdrawn while it is pending on the Commission's docket or pending before the Common Council.

Section 3. Proposals Involving Same Property as Defeated Proposal:

A. Same Property as Defeated Rezone:

If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a defeated proposal, as described in Section 1 of this Article, the new proposal may not be considered by the Commission until six months have elapsed from the date the defeated proposal was defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608.

B. Same Property as Defeated Use Variance or Special Exception:

If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a use variance or special exception application which the Carmel Board of Zoning Appeals decided adversely to the petitioner, the new proposal may not be considered by the Commission until six months have elapsed from the date of the adverse decision issued by that Board.

Section 4. Proposals Involving Same Property as Withdrawn Rezone:

If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a withdrawn proposal, as described in Section 2 of this Article, the new proposal may not be considered by the Commission until three months have elapsed from the date the withdrawn proposal was withdrawn.

Section 5. Restriction on Assignment of Docket Number:

A rezone proposal that is restricted from consideration under this Article shall not be assigned a docket number or placed on the Commission's agenda before the expiration of the restriction period, unless these Rules are suspended in accordance with Article XII, Section 2 of these Rules.

Article XI. Committees

Section 1. Standing Committees and Meetings:

C. Establishment of Committees:

The Commission hereby establishes the following standing committees: Residential Committee; Commercial Committee; Plat Committee; Executive Committee.

D. Regular Meetings:

Regular meetings of the Residential and Commercial Committees shall be held on the first Tuesday of each month at 6:00 p.m. in the Caucus Rooms (on the north side of the Council Chambers of the City of Carmel), City Hall, One Civic Square, Carmel, Indiana. Regular meetings of the Plat Committee shall be held on the first Tuesday of each month at 12:00 noon in said Caucus Rooms. One regular meeting of the Executive Committee shall be held each year on the third Tuesday of the month of January, immediately following the regular meeting of the Commission held on that same date, or at such other time, date, and place as the president may set, subject to the notice requirements of IC 5-14-1.5.

E. Special Meetings:

A special meeting of any standing committee may be called by the chairperson of the committee upon written request to the secretary, subject to the special meeting provisions of Article III, Section 2 of these Rules.

Section 2. Membership and Caseloads:

A. Appointment and Removal of Members:

The members of the Residential, Commercial, and Plat Committees shall be appointed by the president of the Commission, subject to the approval of the Executive Committee. Each appointment of a member of a committee is for a term of one year, but the Commission may remove a member from a committee. The Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his or her residence address. A member who is removed may not appeal the removal to a court or otherwise. Vacancies shall be filled immediately by the president.

B. Number of Members:

The Residential Committee must consist of not more than four members of the Commission. The Commercial Committee must consist of not more than four members of the Commission. Pursuant to IC 36-7-4-701(e), the Plat Committee must consist of either three or five persons, with at least one of the members being a member of the Commission.

C. Residential Committee Caseload:

The Residential Committee shall review in detail, and file a written report with the Commission on, the proposals for residential development which are presented to the Commission at public hearing and referred to the committee under these Rules.

D. Commercial Committee Caseload:

The Commercial Committee shall review in detail, and file a written report with the Commission on, the proposals for other types of development which are presented to the Commission at public hearing and referred to the Committee under these Rules. In addition, pursuant to IC 36-7-4-402(d), the Commission hereby delegates to the Commercial Committee the authority to make any decision that the Commission is required to make in regard to ADLS Amendment petitions, subject to the removal provisions of Section 18 of this Article.

Section 3. Plat Committee Provisions:

A. Plat Committee Caseload:

Pursuant to IC 36-7-4-701(e), IC 36-7-4-711, and IC 36-7-3-10, the Commission hereby delegates to the Plat Committee the authority to conduct any public meeting and to make any decision that the Commission is required to make, in the following cases whenever placed on the committee's agenda pursuant to Section 18 of this Article: Primary Plats, Primary Plat Amendments, Subdivision Waivers, and Plat Vacations for minor subdivisions and subdivisions where no infrastructure improvements are needed or proposed, all subject to the removal provisions of Section 18 of this Article.

B. Delegation of Secondary Plats to Staff:

Secondary Plats, Secondary Plat Amendments, and related construction plans may be presented by Staff to the Plat Committee for resolution when not all concerns have been resolved between Staff and the petitioners. However, the Plat Committee may act under this paragraph only if the petitioner has given 10 days' notice of the Plat Committee meeting to the same interested parties who received notice of the Primary Plat petition under Article VII of these Rules. Otherwise, the Commission hereby delegates to Staff the authority to grant Secondary Plat and Secondary Plat Amendment approvals, in accordance with IC 36-7-4-710.

C. Completion of Infrastructure:

Pursuant to IC 36-7-4-709(c), the Director shall determine, based on inspections conducted by Staff, whether all improvements and installations as shown on the Primary Plat have been constructed and completed as required by the Unified Development Ordinance. However, in accordance with IC 36-7-4-709(a) and (b), approval may be granted to a Secondary Plat for a subdivision in which the improvements and installments have not been completed as required by the Unified Development Ordinance, if:

1. the petitioner provides a bond, or other proof of financial responsibility as prescribed in the Unified Development Ordinance, that: (a) is an amount determined by the Commission or Plat Committee to be sufficient to complete the improvements and installations in compliance with the Ordinance; and (b) provides surety satisfactory to the Commission or Plat Committee; or
2. with respect to the installation or extension of water, sewer, or other utility service: (a) the petitioner shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and (b) the Commission or Plat Committee determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the Unified Development Ordinance.

Section 4. Executive Committee Provisions:

A. Executive Committee Membership:

The Executive Committee shall consist of the president, the vice president, the chairperson of the Residential Committee, the chairperson of the Commercial Committee, and an at-large member elected by the Commission. Pursuant to IC 36-7-4-408, a majority of the Executive Committee may act in the name of the Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the Executive Committee to the Commission.

B. Executive Committee Caseload:

The Executive Committee shall recommend Rule changes and act in the name of the Commission on all administrative matters. The Executive Committee shall meet to consider matters which are brought before it by the president, who shall serve as the chairperson of the Executive Committee. The Executive Committee shall recommend procedures for resolving special issues and concerns brought to the Commission for consideration.

Section 5. Geographical Considerations:

The president shall take geographical distribution into consideration when establishing membership of the Residential, Commercial, and Plat Committees.

Section 6. Advisory Committees:

Pursuant to IC 36-7-4-407, the Commission may, by resolution, establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the Commission shall specify the terms of its members and its purposes, and how the chairperson and members shall be selected.

Section 7. Chairpersons:

The chairpersons of the Residential, Commercial, and Plat Committees shall be appointed by the president.

Section 8. Minutes:

Committees shall keep minutes of their proceedings showing the vote of each question presented.

Section 9. Quorum:

A majority of the members of a committee shall constitute a quorum. Action of a committee shall not be official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the committee.

Section 10. Alternate Members:

If less than a majority of members of a committee are present, the president may appoint himself or herself, or other Commission members, as alternate members to hear and vote the matters pending before that committee.

Section 11. Open Meetings:

Any and all committee and executive session meetings of the Commission shall be open to all members of the Commission. However, attendance at a committee meeting by a majority of the entire membership of the Commission shall not convert such committee meeting into a meeting of the Commission, for purposes of Article IV of these Rules, nor shall any action taken at such a meeting be deemed the official action of the Commission.

Section 12. Public Input:

Upon any matter assigned or referred to a committee, the petitioner may summarize arguments and the committee may question further. The committee shall not conduct a further or additional public hearing after the president of the Commission (or the chairperson of the committee) has formally closed the public hearing on a matter in accordance with Article VIII, Section 3 of these Rules. However, the chairperson has the discretion to allow for comments and questions from the public on any matter pending before the committee, subject to Section 14 of this Article.

Section 13. Modifications; Continuances:

After the Staff and committee's questions and concerns have been satisfactorily answered, then the committee may take action on a matter. The committee, at its discretion, may permit a petitioner to make amendments or modifications to any proposal pending before it, or may continue its discussion of any proposal until satisfactory amendments or modifications are

submitted for its consideration. The committee may also continue its discussion of any matter when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 14. Decorum:

Every person appearing before a committee shall abide by the order and directions of the chairperson. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the committee and shall be dealt with as the committee directs. Applause in support of statements is an example of discourteous conduct which will not be condoned. In addition, the chairperson shall disallow repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by any speaker as deemed appropriate to a fair and efficient public hearing or meeting.

Section 15. Decision and Findings:

After consideration of any reports and recommendations of the Staff, the final disposition of any matter within the committee's jurisdiction shall be in the form of a decision setting forth the findings and determinations of the committee together with any modifications, specifications, limitations, or other conditions which it makes. In any case in which the committee is required to make written findings along with a final decision, the committee may adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications, limitations, or other conditions, or the committee may delegate to Staff and/or legal counsel the authority to prepare written findings. When written findings are required, the committee's findings shall be executed by the chairperson of the committee and secretary of the Commission and filed in the office of the Commission within 45 days after the date of the committee's final decision.

Section 16. Committee Report:

The disposition of any matter that has been assigned to the committee by the president of the Commission for a recommendation shall be in the form of a committee report, setting forth the committee's recommendation (if any), together with any modifications, specifications, limitations, or other conditions which it may recommend to the Commission. The committee's recommendation (if any) on any such matter may then be followed or overturned by the Commission in accordance with state statute, city ordinances, and these Rules. In any case in which the Commission will be required to make written findings along with a final decision, the committee may recommend that the Commission adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications, limitations, or other conditions, or the committee may recommend that Staff and/or legal counsel be granted the authority to prepare written findings. The disposition of any matter that has been assigned to the committee with the committee delegated the authority to make any decision that the Commission would otherwise be required to make, shall be reported back to the full Commission at its next regular meeting.

Section 17. Failure to Act:

Regarding any matter that has been assigned to a committee by the president or otherwise pursuant to these Rules, if the committee fails to forward its recommendation to the Commission, or to make a decision on the matter, within two months because of an inability to meet the quorum requirements of this Article, then the Commission may, upon motion of any Commission member, remove the matter from the committee's agenda and take further action on the matter without receiving any recommendation from the committee, all in accordance with state statute, city ordinances, and these Rules.

Section 18. Committee Agendas:

A. Docketing:

After a matter has been referred to a committee under Section 2 or 3 of this Article, the Director shall place the matter upon the agenda for the committee's next regularly scheduled meeting, or for a special meeting called under Section 1.C of this Article.

B. Copies Submitted to All Commission Members:

Copies of each matter placed on a committee's agenda under paragraph A shall also be transmitted to all members of the Commission, no less than five days before the scheduled date for that agenda. Any member of the Commission may then communicate with the Director if in the opinion of the member the matter should be placed upon the Commission's agenda. The Director may then remove such matter from the committee's agenda and transfer it to the agenda of the Commission.

C. Removal of Agenda Item by Committee:

If a committee determines that a matter on its agenda should instead be considered by the entire membership of the Commission, then the committee chairperson shall so advise the Director, and the Director shall then remove the matter from the committee's agenda and transfer it to the agenda of the Commission.

Section 19. Appeals to Commission:

Pursuant to IC 36-7-4-402(d) and IC 36-7-4-403.5, a decision made by a committee under the authority of this Article may not be a basis for judicial review, but it may be appealed to the Commission. An interested person who wishes to appeal a decision of a committee made under the authority of this Article must file the appeal not more than five days after the date the decision is made, and the Commission shall then hold the prescribed hearing and render its decision. However, if the Plat Committee grants primary approval for a subdivision without public notice and hearing under IC 36-7-4-701(d), an interested party may appeal the approval to the Commission by filing a notice of appeal with the Commission not more than five days after a copy of the of the Plat Committee's action is mailed to the interested party, as provided in IC 36-7-4-708.

Section 20. "Combo Committee" Procedure:

A. Requests to Use a Combined Hearing Procedure:

This Section applies only to related proposals that would otherwise require more than one public hearing (or other meeting) to be held by either the Commission, a committee of the Commission, a hearing examiner of the Commission, the Staff of the Commission, the Board of Zoning Appeals, a hearing officer of the Board of Zoning Appeals, or any combination thereof. The Director may consider requests that a committee of the Commission (including a committee of the whole) be designated to exercise the powers listed in IC 36-7-4-403.5 and conduct a combined hearing procedure under that Section.

B. Director's Notice to All Council Members:

Upon receiving a request under paragraph A, the Director shall notify all members of the Common Council if the Director intends to grant the request, which notice must include a synopsis of the affected proposals. Any member of the Council may then, within three business days after being so notified, communicate with the Director if in the opinion of the member the combined hearing procedure should not be used for one or more of the affected proposals. If the Director receives such an objection from any Council member, the Director shall not place the affected proposals upon a committee's agenda for a combined hearing procedure.

C. Director's Discretion to Grant Request:

If no objections are received under paragraph B, the Director may grant a request under Paragraph A. In such event, the Director shall then place all affected proposals upon a committee's agenda for a combined hearing procedure, instead of placing the matter upon the agenda of the Commission (or the agenda of the Board of Zoning Appeals). Notwithstanding any other Rule, notice of hearings pursuant to a combined hearing procedure shall be published or sent not less than 10 days prior to the hearing date (including the date of the hearing).

D. Copies Submitted to All Commission Members:

Copies of all proposals placed upon a committee's agenda for a combined hearing procedure shall also be submitted to all members of the Commission, no less than 10 days before the scheduled date for that agenda. Any member of the Commission may then communicate with the Director if in the opinion of the member the proposals should be placed upon the Commission's agenda (or the agenda of the Board of Zoning Appeals, or both). The Director shall then remove such proposals from the committee's agenda and transfer them to the Commission's agenda (or the agenda of the Board of Zoning Appeals, or both).

E. Removal of Agenda Items by Committee:

If a committee determines that proposals on its agenda for a combined hearing procedure should instead be considered by the entire membership of the Commission (or the Board of Zoning Appeals, or both), then the committee chairperson shall so advise the Director, and the Director shall then remove the proposals from the committee's agenda and transfer them to the Commission's agenda (or the agenda of the Board of Zoning Appeals, or both).

Article XII. Miscellaneous

Section 1. Robert's Rules:

Robert's Rules of Order are hereby incorporated by reference and made a part of these Rules and shall control on issues and procedures not expressly provided for herein.

Section 2. Amendments:

Proposed additions to, alterations, and amendments or repeal of these Rules of Procedure may be presented by the Executive Committee at any regular or special meeting of the Commission. Such additions, alterations, or amendments may be adopted only upon the affirmative vote of a majority of the members of the Commission. The suspension of any Rule may be ordered at any meeting of the Commission by a two-thirds vote of the Commission. The suspension of any Rule requiring publication of notice (Article VII) may be ordered at any meeting of a committee by a two-thirds vote of the committee.

Article XIII. Repeal

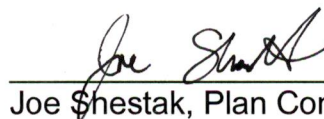
All previous rules adopted by the Commission are hereby superseded and replaced by these Rules, as of September 15, 2020.

By:



Brad Grabow, Plan Commission President

Attest:



Joe Shestak, Plan Commission Secretary

Dated: Sept. 28, 2020